

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION

HEADWATER RESEARCH LLC,

Plaintiff,

v.

AT&T SERVICES, INC., AT&T  
MOBILITY, LLC and AT&T  
ENTERPRISES, LLC,

Defendants.

Civil Action No. 2:23-cv-00397-JRG-RSP

**JURY TRIAL DEMANDED**

**DEFENDANTS' OBJECTIONS TO ORDER GRANTING IN PART PLAINTIFF'S  
MOTION FOR LEAVE TO SUPPLEMENT EXPERT REPORTS BASED  
ON NEWLY PRODUCED DISCOVERY (DKT. 243)**

Pursuant to Local Rule CV-72, Defendants AT&T Services, Inc., AT&T Mobility, LLC and AT&T Enterprises, LLC (collectively, "AT&T") respectfully object to the Order (Dkt. 243) insofar as it grants Plaintiff Headwater Research LLC ("Headwater") and its experts leave to rely on the late-produced Apple usage dataset "APL-HEADWATER\_00000716." The Order's sole reference to that document appears in the concluding sentence granting relief—with reference to the Court's order in a parallel motion in another carrier case.<sup>1</sup> The Order thus contains no analysis of the disputed issues *unique to AT&T*—e.g., that, unlike the other carriers, *AT&T never agreed to extend fact discovery*. Besides, this is more than a simple scheduling disruption. Headwater's delay prejudiced AT&T by depriving AT&T of the chance to develop the evidentiary record, such as by questioning Apple, Motorola, or Samsung about the newly disclosed materials. *See Pozen Inc. v. Par Pharm., Inc.*, No. 6:08CV437-LED-JDL, 2010 WL 11431483, at \*7 (E.D. Tex. June 8,

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<sup>1</sup> The Order references the Court's Order in the *Verizon* case (Dkt. 195 in Case No. 2:23-CV-352) (the "*Verizon* Order"), which denied a similar motion in the *Verizon* case.

2010) (“Pozen was prejudiced because deadlines in this case prevented it from fully engaging in discovery and then developing its rebuttal positions in the same manner that it would have if there had been proper notice.”). AT&T respectfully requests that the Court sustain this objection and enter the relief required in AT&T’s Motion for Reconsideration (Dkt. 252).

Dated: July 25, 2025

By: /s/ Nicholas Mathews

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**ATTORNEYS FOR AT&T CORP., AT&T  
MOBILITY LLC, AND AT&T SERVICES,  
INC.**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above and foregoing document has been served on all counsel of record via the Court's ECF system on July 25, 2025.

/s/ Nicholas Mathews  
Nicholas Mathews